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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,651	11/24/2003	Christian Eric Schrock	MS#304199.02 (5468.1)	4659
38779	7590	08/07/2009	EXAMINER	
SENNIGER POWERS LLP (MSFT) 100 NORTH BROADWAY 17TH FLOOR ST. LOUIS, MO 63102				AUGUSTIN, EVENS J
ART UNIT		PAPER NUMBER		
3621				
			NOTIFICATION DATE	DELIVERY MODE
			08/07/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/720,651	SCHROCK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	EVENS J. AUGUSTIN	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 April 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,4,5,7,10,11,13,14,16,17,19-24,26,27 and 38-42 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,4,5,7,10,11,13,14,16,17,19-24,26,27 and 38-42 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

1. This is in response to the amendment sent on March 17<sup>th</sup>, 2009. Claims 1, 4, 5, 7, 10-11, 13-14, 16-17, 19-24, 26-27 and 38-42 are pending and have been examined.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 4, 5, 7, 10-11, 13-14, 16-17, 19-24, 26-27 and 38-42 have been considered but are moot in view of the new ground(s) of rejection, necessitated by applicant's amendment.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, 5, 7, 10-11, 13-14, 16-17, 19-24, 26-27 and 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dwek (U.S. 20010018858 ), in view of Headley et al. (U.S. 20020194260) ("Headley").
5. As per claims 1, 4, 5, 7, 10-11, 13-14, 16-17, 19-24, 26-27 and 38-42, Dwek discloses an invention comprising of the following:
  - A. selecting a first track of the plurality of audio tracks referenced by the globally relevant playlist, (user selection one or more music to play, par. 55) the first track

being associated with a first global track identifier, the first global track identifier being generated as a function of the contents of the first track to uniquely identify the contents of the first track;

B. Determining whether the first track is locally accessible to the computing device (par. 55);

C. if the first track is determined to be locally accessible to the computing device, retrieving the first track locally from the computing device and playing the retrieved first track on the computing device: and if the first track is determined to be locally inaccessible to the computing device, obtaining the first track from the remote source identified via the source field and playing the obtained first track on the computing device (par. 55)

6. Although it is implied, Dwek did not disclose an invention in which the track selected has an identifier that is used to identify the track. However, Headley describes an invention that relates to multimedia systems and more particularly, to a method and apparatus for creating multimedia playlists for audio-visual systems. According to Headley, a track's unique identifier is used to "used to cross-reference additional information related to the media which may be located on local database 216 associated with set-top device 106 or a remote database such as audio database 114 or video database 116" (par. 41 and 43).

7. Therefore, it would have been obvious for one of ordinary skill in the art at the time of applicant's invention to use an identifier that is used to identify the track/song across different storage medium, whether remote or local. The reason for and artisan of ordinary skill in the art to do so is because the unique identifier would allow for easier data storage and retrieval.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Any new ground(s) of rejection is due to the applicant's amendment. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
9. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
- 10.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EVENS J. AUGUSTIN whose telephone number is 571-272-6860. The examiner can normally be reached on 10am - 6pm M-F.
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571)272-6779.

*/Evens J. Augustin/*

Evens J. Augustin  
August 5, 2009  
Art Unit 3621